



# STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

## APPENDIX B

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

### MEMORANDUM OF AGREEMENT

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Entered into and between

#### STELLENBOSCH MUNICIPALITY

(hereafter called the "**MUNICIPALITY**")

Herein represented by **Geraldine Mettler**, in her capacity as **Municipal Manager**, being duly authorised

and

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(hereafter called the "**BENEFICIARY**")

Herein represented by \_\_\_\_\_ in his/her capacity as \_\_\_\_\_,  
being duly authorised.

**WHEREAS** Section 67(1) of the Local Government: Municipal Finance Management Act, Act 56 of 2003 (MFMA) oblige the Accounting Officer of a **MUNICIPALITY** to satisfy himself that, before transferring funds of the **MUNICIPALITY** to an organisation or body outside any sphere of government otherwise than in compliance with a commercial or other business transaction, that such organisation or body:-

- (a) has the capacity and has agreed-
  - (i) to comply with any agreement with the **MUNICIPALITY**;
  - (ii) for the period of the agreement to comply with all reporting, financial management and auditing requirements as may be stipulated in the agreement;
  - (iii) to report at least monthly to the Accounting Officer on actual expenditure against such transfer (should transfers be done on a monthly basis); and
- (b) implements effective, efficient and transparent financial management and internal control systems to guard against fraud, theft and financial mismanagement; and

- (c) has in respect of previous similar transfers complied with all the requirements as set out above; and
- (d) give permission to site visits done by the **MUNICIPALITY**.

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**WHEREAS** the **MUNICIPALITY** has approved a Grants-in-Aid Policy, in terms whereof applications are considered;

**WHEREAS** the **BENEFICIARY** has applied for a grant-in-aid as per the official grant-in-aid application form; and

**WHEREAS** the **MUNICIPALITY** has approved such application, subject to certain conditions;

**NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:**

**1. TRANSFER OF FUNDS**

1.1 The **MUNICIPALITY** hereby undertakes to transfer an all-inclusive amount of

**R40 000.00 (Forty thousand, rand only)**, being a donation for the period **01 July 2017** to **30 June 2018** to the **BENEFICIARY**.

1.2 Bank Account details: (The following are confirmed through a correctly completed Creditors Control Form.)

Account number	:	_____
Name of financial institution	:	_____
Name of account holder	:	_____
Branch code	:	_____
Type of account	:	_____

1.3 The all inclusive amount will be transferred in equal amounts on the following dates (if applicable):

\_\_\_\_\_

**2. OBLIGATIONS OF BENEFICIARY**

2.1 The **BENEFICIARY** must acknowledge in writing to the Municipal Manager that the amount(s) was(were) received in it's bank account.

- 2.2 The **BENEFICIARY** hereby certifies that the money will be utilised in accordance with the role of the organisation or society, to the benefit of the community and in accordance with the project(s) / programme(s) as indicated in the application form.

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- 2.3 The **BENEFICIARY** undertakes to regularly report on a monthly basis to the Municipal Manager regarding the activities conducted, actual expenditure against such transferred funds, as well as the number of people benefiting from the activities should monthly payments be made. If not, an annual report on the expenditure will be provided.
- 2.4 The **BENEFICIARY** further undertakes to submit an audited financial statement for its financial year to the Municipal Manager by not later than **30 June 2017**

### 3. **SPECIFIC CONDITIONS**

- 3.1 The parties specifically agree on the following:

That the organization will commit to active involvement in any programme run by the municipality in the area of operation of the organization when such a programme is active in the community.

**Other conditions:**

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### 4. **DECLARATION OF INTEREST**

The beneficiary declares that the following municipal employees and/or councillors have a vested interest in the business of the beneficiary. However, they do not benefit directly from this donation and were not part of the decision making process in the allocation of the donations: (Name and designation)

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### 5. **ACQUISITION OF ASSETS**

- 5.1 Should the **BENEFICIARY** wish to acquire any moveable or immovable assets with the money donated in terms of this Agreement, the **BENEFICIARY** hereby undertakes to:-
- 5.1.1 adhere to the principles as per the **MUNICIPALITY'S** Supply Chain Management Policy, and
- 5.1.2 take all reasonable steps to ensure that such assets are maintained and that a system of internal control of such assets is in place.

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## **6. RIGHTS OF THE MUNICIPALITY**

- 6.1 The **MUNICIPALITY** shall be entitled, from time to time, to verify the existence and to inspect the activities of the **BENEFICIARY**, having regards for its right to privacy as entrenched in terms of the Constitution of the Republic of South Africa..
- 6.2 The **MUNICIPALITY** shall further be entitled to peruse the budgets and any progress reports related to the project / programme as per this Agreement.

## **7. FAILURE TO COMPLY**

- 7.1 Failure by the **BENEFICIARY** to comply with the obligations as set out in Clause 2 of this Agreement, may lead to the cancellation of this Agreement, in which case the **MUNICIPALITY** may demand that the organisation pays back any unspent funds as per this Agreement. The **MUNICIPALITY** may even, depending on the circumstances leading to the non-compliance by the **BENEFICIARY**, demand that the organisation pays back the full amount paid to the **BENEFICIARY**.

## **8. INDEMNIFICATION**

- 8.1 The **BENEFICIARY** hereby acknowledges that it receives the grant voluntarily and that it shall keep the **MUNICIPALITY** indemnified at all times against any loss, cost, damage, injury or liability suffered by the **MUNICIPALITY** resulting from any action, proceeding or claim made by any person (including themselves) against the **MUNICIPALITY** caused directly or indirectly by the use/spending of the grant.

## **9. DISPUTE RESOLUTION**

- 9.1 Any dispute arising from this Agreement shall be mediated between the Parties by a mutually agreed upon and suitably skilled mediator. Should the mediator be unsuccessful and the Parties fail to reach agreement, the dispute may be referred by the aggrieved Party to the arbitration of a single arbitrator, to be agreed upon between the Parties, or failing agreement, to be nominated on the application of any Party, by the President for the time being of the South African Association of Arbitrators. The decision of the single arbitrator shall be final and binding on the Parties.

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## 10. NOTICES AND DOMICILIA

- 10.1 The parties choose as their *domicilia citandi et executandi* their respective addresses as set out in this clause for all purposes arising out of or in connection with the agreement at which addresses all processes and notices arising out of or in connection with this Agreement, its breach or termination, may validly be served upon or delivered to the Parties.

- 10.2 For purposes of this Agreement the Parties' respective addresses shall be:

10.2.1 The **MUNICIPALITY:**

Town House  
Plein Street  
Stellenbosch  
7600  
Fax: 021 – 808 8025

10.2.2 The **BENEFICIARY:**

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**email address:** \_\_\_\_\_

or at such other address of which the Party concerned may notify the other(s) in writing provided that no street address mentioned in this sub-clause shall be changed to a post office box or poste restante.

10.3 Any notice given in terms of this Agreement shall be in writing and shall-

10.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery;

10.3.2 if posted by prepaid registered post be deemed to have been received by the addressee on the 8<sup>th</sup> (eighth) day following the date of such posting;

10.3.3 if transmitted by facsimile be deemed to have been received by the addressee on the day following the date of despatch;

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10.4 Notwithstanding anything to the contrary contained or implied in this Agreement, a written notice or communication actually received by one of the Parties from another, including by way of facsimile transmission, shall be adequate written notice or communication to such party.

## 11. ENTIRE AGREEMENT

This Agreement, including the **Grant-in-Aid policy and application form**, reflects the entire Agreement between the Parties and no variation, amendment or addendum shall be of any force and effect between the Parties unless contained in writing, signed and agreed on by both Parties.

Signed at Stellenbosch on this \_\_\_\_\_ day of \_\_\_\_\_ 2017.

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for the **MUNICIPALITY**

WITNESS: 1. ....

2. ....

Signed at Stellenbosch on this \_\_\_\_\_ day of \_\_\_\_\_ 2017.

.....

for the **BENEFICIARY**

WITNESS:   1. ....  
              2. ....